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APR 13 2015

**MOTION UNDER 28 U.S.C. § 2255  
FOR FEDERAL PRISONERS  
(Persons Sentenced in the District of Montana Only)**

CLERK, U.S. DISTRICT COURT  
DISTRICT OF MONTANA  
MISSOULA

**In the United States District Court for the District of Montana**

Missoula Division

<p>Name of Defendant/Movant:</p> <p>William Richard Nielsen</p> <p align="center">vs.</p> <p align="center">United States of America</p>	<p>Prisoner No.:</p> <p>11178-046</p>
<p>Place of Confinement:</p> <p>United States Penitentiary - Tucson P.O. Box 24550 Tucson, AZ 85734-4550</p>	<p>Case No. CR:</p> <p>CR 11-08-M-DWM</p>

*Instructions – Read Carefully*

1. Use this form to challenge a conviction or sentence entered in the United States District Court for the District of Montana. There is no filing fee. You need not apply to proceed in forma pauperis to file this motion.
2. Your motion must be legibly handwritten or typed. You must tell the truth and sign the form. If you falsely state a material fact, you may be prosecuted for perjury and/or your motion may be dismissed. *Answer all the questions.* You are not necessarily required to answer “yes” to all questions in order to proceed.
3. Use additional pages if necessary to state grounds for relief and/or facts you rely on to support relief. No brief or authorities need be furnished. If you choose to submit a brief, please file it with your motion, but make it a separate document.
4. If you challenge more than one judgment, please file a separate motion as to each.

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5. The Court may determine your claims based solely on what is in this motion. You must include in the motion all grounds for relief you want the Court to review and all facts supporting such grounds for relief. If you do not set forth all grounds in this motion, you may be barred from presenting additional grounds later. 28 U.S.C. §§ 2244(a), (b), 2255(f), (h).
6. When you complete your motion, mail the *original* (no copies required) to the United States District Court Clerk in the Division where you were convicted:

Billings Division: Clerk of U.S. District Court, 2601 2nd Ave. North, Suite 1200, Billings, MT 59101

Butte Division: Clerk of U.S. District Court, Mike Mansfield Courthouse, 400 N. Main, Butte, MT 59701

Great Falls Division: Clerk of U.S. District Court, Missouri River Courthouse, 125 Central Ave. West, Great Falls, MT 59404

Helena Division: Clerk of U.S. District Court, Paul G. Hatfield Courthouse, 901 Front St., Ste. 2100, Helena, MT 59626

Missoula Division: Clerk of U.S. District Court, Russell Smith Courthouse, 201 East Broadway, P.O. Box 8537, Missoula, MT 59807

**MOTION TO VACATE, SET ASIDE, OR CORRECT THE SENTENCE**  
**28 U.S.C. § 2255**

1. What were you convicted of?  
Coercion and Enticement of a Minor pursuant to 18 U.S.C. § 2242(b)
2. Have you previously filed or have you ever been deemed to have filed a motion under § 2255 in this case?

Yes ☐  
No ☒

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- (a) If Yes, have you received authorization from the Ninth Circuit Court of Appeals to file a second or successive motion?

Yes ☐

No ☐

- (b) Date authorization received:

- (c) Ninth Circuit case number:

- (d) Please attach a copy of the Ninth Circuit's order.

3. Have you previously filed in a federal court a petition for writ of habeas corpus relating to the sentence you challenge in this motion?

Yes ☐

No ☒

- (a) If Yes, date filed:

- (b) Name of court where petition was filed and case number:

- (c) Grounds raised:

- (d) Court's decision and date:

4. Have you previously filed with the Bureau of Prisons any request or grievance related to the execution of the sentence you challenge in this motion?

Yes ☐

No ☒

- (a) If Yes, nature of your request or grievance:

- (b) Grounds raised:

(c) Result, date of decision, and job title of the person who made the decision:

5. State each ground on which you claim that you are being held unlawfully (e.g., Ground One: Confrontation Clause violation). Briefly summarize the facts supporting each ground and answer the questions following:

A. Ground One: Ineffective Assistance of Counsel for failure to object to obvious judicial bias.

(i) Supporting Facts:

See Attachment A

(ii) Did you raise this ground for relief in your direct appeal?

Yes ☐

No ☒

If Yes, why shouldn't this Court follow the Court of Appeals' decision?

N/A

If No, why didn't you raise this ground for relief in your direct appeal?

28 U.S.C. § 2255 is the appropriate venue for claims of ineffective assistance of counsel.

B. Ground Two: The United States has no jurisdiction of the charge at issue due to lack of Commerce Clause connection.

(i) Supporting Facts:

See Attachment B

(ii) Did you raise this ground for relief in your direct appeal?

Yes ☐

No ☒

If Yes, why shouldn't this Court follow the Court of Appeals' decision?

N/A

If No, why didn't you raise this ground for relief in your direct appeal?

I was unaware of this issue until after I was already incarcerated.

C. Ground Three: Ineffective Assistance of Counsel for failure to object to "especially vulnerable victim" enhancement.

(i) Supporting Facts:

See Attachment C

(ii) Did you raise this ground for relief in your direct appeal?

Yes ☐

No ☒

If Yes, why shouldn't this Court follow the Court of Appeals' decision?

N/A

If No, why didn't you raise this ground for relief in your direct appeal?

Ineffective assistance of counsel can only be brought up under 28 U.S.C. § 2255.

*Please state any additional grounds for relief by attaching pages,*

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*following the format of questions (i)-(ii) as above.*

6. Defendant/Movant asks the Court to grant the following relief:  
Vacate and remand matter for resentencing.

and/or any other relief to which Defendant/Movant may be entitled.

N/A

\_\_\_\_\_  
Signature of Attorney (if any)

### **Movant's Declaration**

- A. I am the Defendant/Movant in this action, and I understand that submission of a false statement or false answer to any question may subject me to penalties for perjury. I declare under penalty of perjury that I have read this Motion and that the information contained in the Motion is true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.
- B. I will keep the Court informed of my current mailing address. I understand that failure to do so may result in dismissal of this Motion without actual notice to me.
- C. *Incarcerated Prisoners Only:* This Motion was deposited in the prison system for legal mail on:

the 7<sup>th</sup> day of April, 2015.

William Nielsen  
Signature of Defendant/Movant

4-6-15 WN  
Date Signed

Revised Aug. 2012

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